

Docket Item #18
INITIATION OF TEXT AMENDMENT
#2003-0006-I

Planning Commission Meeting
October 7, 2003

CASE: INITIATION OF TEXT AMENDMENT #2003-0005
DAY LABOR AGENCIES

ISSUE: Consideration of initiation of a text amendment to the Zoning Ordinance to readopt the day labor agency definition, and to amend the SUP regulations for day labor agencies in appropriate commercial zones.

STAFF: Department of Planning and Zoning

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STAFF RECOMMENDATION:

Staff recommends that the Planning Commission, pursuant to the attached motion, initiate a text amendment to the Zoning Ordinance, in order to readopt the definition of day labor agency and amend the special use permit requirement for the use in appropriate commercial zones, finding that the consideration of such a text amendment is consistent with public necessity, convenience, general welfare and good zoning practice.

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DISCUSSION

In 1999, City Council adopted zoning legislation to regulate day labor agencies, because the use, when located near residential uses, can create negative impacts for the neighborhood. That text amendment (TA 99-0001) included two components: it defined day labor agencies and it provided that, if a special use permit were approved, the use would be allowable in each of the commercial zones. At the time of its adoption, there were two day labor agencies operating in Alexandria. The first to come before the Commission and Council, All Star Temporaries, was originally located in the Inner City neighborhood. It decided to move to Eisenhower Avenue, and its special use permit for that location was approved (SUP#2000-0119). The second application under the then new day labor agency regulations was brought by Ace Temporaries, for 717 Pendleton Street. The SUP for that day labor agency was denied.

Thereafter, Ace Temporaries challenged the staff determination that its business fit within the day labor agency definition. The Board of Zoning Appeals upheld the Director of Planning's decision on that point. A challenge to the BZA decision, among other assertions, was brought in a lawsuit by Ace Temporaries against the City in Circuit Court. The agency was permitted to remain at the problem location over the course of the lawsuit. This summer, the court ruled on a procedural issue, holding that, the text amendment was not "initiated" as called for in the state statute. As a result, and because the City continues to find that day labor agencies are uses for which SUP regulation is appropriate, the staff is bringing forward similar zoning legislation for readoption.

The text amendment, to be brought to the Commission and Council next month for actual consideration and adoption, will be similar to what was adopted in 1999. Staff is however proposing two changes. First, the definition will be revised to clarify the "day labor agency" definition. Secondly, as the Commission had previously suggested, staff will be refining the list of commercial zones in which day labor agencies may be approved, and not allowing them at all in the lower density zones which tend to be located adjacent to residential areas, with an appropriate abatement period for any existing uses.

Recommendation

Staff recommends that the Commission initiate a text amendment on its own motion to readopt zoning legislation to define and regulate day labor agencies, because consideration of changes is consistent with public necessity, convenience, general welfare and good zoning practice.

Staff: Eileen Fogarty, Director, Planning and Zoning;
Barbara Ross, Deputy Director.

Attachment: Board of Zoning Appeals material, case # 2002-00063 (which includes Text Amendment 99-0001, Ordinance #4049, and SUP#2000-0119).

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INITIATION MOTION

Whereas the Alexandria Planning Commission may initiate the amendment of the Alexandria Zoning Ordinance whenever it determines that public necessity, convenience, general welfare or good zoning practice requires an amendment; and

Whereas the current provisions of the Alexandria Zoning Ordinance, as adopted in Text Amendment 99-0001 have been successfully challenged in court on procedural grounds,

And whereas the legislation in Text Amendment 99-0001 represents good zoning practice that is important to the public necessity and convenience and the general welfare,

And whereas the zoning in place prior to Text Amendment 99-0001 allowed day labor agencies within commercial zones without a special use permit so that the use could locate where the zoning impacts were inappropriate to surrounding areas, without adequate protection,

Now, therefore, I move that the Alexandria Planning Commission find that the public necessity, convenience, general welfare or good zoning practice requires reconsideration of the prior text amendment as Text Amendment No.2003-06,Day Labor Agencies, to define day labor agencies and require a special use permit for them in appropriate commercial zones, and

I further move that the Alexandria Planning Commission initiate such text amendment.